

# FINAL BILL REPORT

## E2SSB 5659

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C 357 L 07  
Synopsis as Enacted

**Brief Description:** Establishing family and medical leave insurance.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Kohl-Welles, Fairley, Franklin, Brown and Kline).

**Senate Committee on Labor, Commerce, Research & Development**

**Senate Committee on Ways & Means**

**House Committee on Commerce & Labor**

**House Committee on Appropriations**

**Background:** Federal and state laws provide that certain employees are entitled to unpaid family and medical leave.

**Federal Law:** Under the federal Family and Medical Leave Act, eligible employees are entitled to take up to 12 weeks of unpaid leave in a 12-month period for specified family and medical reasons, and to be reinstated to their original jobs or equivalent jobs. An eligible employee is one who: (1) works for a covered employer; and (2) has worked for the same employer for at least 12 months, and for at least 1,250 hours over the previous 12 months. An eligible employee is not one who works at a location at which the employer employs less than 50 employees if the total number employed within 75 miles of that worksite is less than 50. A covered employer is a private employer that had 50 or more employees in at least 20 weeks of the current or preceding year. Leave may be taken for: (1) the birth and care of a child of the employee; (2) the placement of a child with the employee for adoption or foster care; (3) the care of an immediate family member who has a serious health condition; or (4) the serious health condition of the employee that makes the employee unable to work.

**State Law:** The state Family Leave Law generally conforms to federal law and related regulations, with certain exceptions. Upon returning from leave, eligible employees are entitled to be returned to workplaces within 20 miles of their original workplaces. Employees are also entitled to leave for sickness or temporary disability related to pregnancy or childbirth in addition to leave under federal law. Employers must allow employees to continue their health coverage at their own expense during leave.

**Summary: Task Force:** A joint legislative task force on family leave insurance is created. The task force is required to study: financing for benefits and administrative costs; program implementation and administration; government efficiencies which improve program administration and reduce program costs; and impacts, if any, on the unemployment compensation system and options for mitigating such impacts. The task force must report its findings and recommendations, including recommendations as to the specific manner in which benefits and administrative costs should be financed, as well as proposed legislation, to the Legislature by January 1, 2008. The provision creating the task force expires July 1, 2009.

The 13-member task force consists of: four legislative members who are the chairs and the ranking members of the Senate Labor, Commerce, Research, and Development Committee and the House Commerce and Labor Committee; four legislative members who are one member of each of the largest caucuses in the Senate, appointed by the majority leader of the Senate, and one member of each of the largest caucuses in the House of Representatives, appointed by the speaker of the House of Representatives; four nonlegislative members who are one large business representative, one small business representative, one labor representative, and one representative of advocates for family leave; and one gubernatorial appointee. Both the Department of Labor and Industries (L&I) and the Employment Security Department must maintain nonvoting liaison representatives to the task force.

Family Leave Insurance: A new partial wage replacement program is established. Beginning on October 1, 2009, benefits of \$250 per week for up to five weeks are paid to individuals who are unable to perform their regular or customary work because they are on family leave. "Family leave" means leave for the birth of a child or the placement of a child for adoption. "Child" means a biological child or an adopted child. "Department" means the state agency to be directed to administer the program.

Eligibility: An individual is eligible to receive benefits if he or she has worked 680 hours in employment covered by unemployment compensation during either the first four of the last five calendar quarters or the last four calendar quarters completed before beginning family leave. An employer or a self-employed person not mandatorily covered may elect coverage.

Other Requirements: If leave is foreseeable, the individual is required to provide notice of leave in the same manner required under the state Family Leave Law.

Disqualification: An individual is disqualified from receiving benefits if the individual made false statements to obtain benefits.

Other Leave and/or Compensation: Leave must be taken concurrently with leave taken under other laws. Employers may require that leave be taken concurrently or otherwise coordinated with leave under collective bargaining agreements or employer policies.

Amount: The amount of the weekly benefit is \$250 for an individual who was regularly working 35 or more hours per week and is on leave for the same number of hours. Benefits are prorated for an individual who was regularly working less than 35 hours per week, and for an individual who is on leave for fewer hours per week than he or she was regularly working.

Duration: An individual is entitled to receive benefits for a maximum of five weeks in an application year. If spouses or state registered domestic partners are employed by the same employer, the employer may require that they not take leave concurrently.

Reinstatement: An individual is entitled to be restored to a position of employment in the same manner as an employee entitled to leave under the state Family Leave Law is restored to a position of employment. However, the individual must have worked for an employer with more than 25 employees for at least 12 months, and for at least 1,250 hours over the previous 12 months.

Confidentiality: Information in an employee's record is not subject to public disclosure, but an employer may review the records of its employee in connection with a pending claim.

Information obtained from employers' records for administration of the program is not subject to public disclosure.

Discrimination: An employer or other person may not discriminate against a person for filing a claim for benefits, communicating an intent to file a claim, or testifying or assisting in a proceeding related to a family leave insurance claim.

Reports: Beginning on September 1, 2010, and annually thereafter, reports on program participation, premium rates, fund balances, and outreach efforts must be submitted to the Legislature.

Account: A dedicated account, the Family Leave Insurance Account, is established. The account may be used only for the program's purposes, including initial administrative expenses. The State Investment Board may invest funds in the account in excess of the amount deemed by the Board to be sufficient to meet current expenditures. The account retains its interest earnings.

Loan: If necessary, the Director of L&I may, from time to time before July 1, 2009, lend funds from the Supplemental Pension Fund to the Family Leave Insurance Account. The loaned funds are solely initial administrative expenses. The loaned funds must be repaid, with interest, from the Family Leave Insurance Account to the Supplemental Pension Fund within two years of the loan. The authority to make loans expires October 1, 2011.

Contracting Authority: L&I may contract or enter into interagency agreements with other state agencies for initial administration of the program. The authority to enter into such agreements expires October 1, 2011.

For the 2007-09 Biennium, \$18 million is appropriated from the Family Leave Insurance Account to L&I for initial administrative expenses.

**Votes on Final Passage:**

Senate	32	17	
House	61	36	(House amended)
Senate			(Senate refused to concur)
House	57	41	(House receded/House amended)
Senate	26	21	(Senate concurred)

**Effective:** May 8, 2007 (Sections 2 and 19-25)  
July 22, 2007  
July 1, 2008 (Sections 3-18 and 26)